



KANSAS LEGISLATIVE INSIGHTS NEWSLETTER | FEBRUARY 22, 2019

After last week's deadline for non-exempt committee bill introductions, the Legislature has more than 560 bills so far this session to debate, pass, reject, or simply ignore. The new bills cover a wide range of topics from allowing teenagers to carry concealed firearms, elimination of state income tax on Social Security benefits, creating a Kansas Aerospace Commission, increasing registration fees for electric and hybrid vehicles, legalization of medicinal marijuana, raising the minimum wage, raising the motor fuels tax by \$.06, to imposing a criminal penalty on owners who allow livestock to run at large. The bill declaring the polka as the state's official dance probably falls in the "simply ignore" category.

House and Senate Committees were busy trying to complete their work before the House of Origin deadline next week. The House Tax Committee heard HB 2261 proposing to reduce the current 6.5 percent sales tax on food sales by one percent. The Committee also held two days of hearings on Senate Bill 22 proposing to decouple Kansas from the Federal Income Tax Code. The House Energy, Utilities and Telecommunications Committee held two days of hearings on HB 2273 proposing to establish the Wind Generation Permit and Property Protection Act. HB 2273 is seen as unfriendly to wind energy and faces strong opposition from the wind energy industry. The House Appropriations Committee approved SB 9 authorizing the \$115 million repayment to the Kansas Public Employees Retirement System (KPERs). SB 9 was debated on the House floor on Thursday and passed on Friday.

In floor action, the Senate debated SB 32 for three and one-half hours into Wednesday evening. SB 32 would allow the Kansas Farm Bureau to offer health coverage without covering pre-existing health conditions. It was a contentious debate with Democrats noting the proposal did not require renewal of policies if a member becomes sick. Opponents noted the Kansas Farm Bureau proposal would eliminate much of what is imposed on other insurers by the Kansas Department of Insurance. An effort to amend Medicaid expansion into the bill was ruled not germane. The bill passed 28-12.

For our readers who enjoy wine, the Senate Federal and State Affairs Committee passed SB 53 designating the Chambourcin as the state red wine grape and designating the Vignoles as the state white wine grape. The bill was placed on the Senate consent calendar for non-controversial bills.

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In House floor action this week, HB 2105 revising the Kansas Limited Liability Company Act was passed and approved. It provides a comprehensive update of Kansas LLC laws recommended by the Kansas Bar Association.

Monday is the last day for committees to pass non-exempt bills. Next week, both the House and Senate will be on the floor debating bills before the next deadline and taking a short break March 1-5.

During each session, legislators feel the entire range of emotions from anger, to frustration, to satisfaction, to joy. There are poignant moments when everyone remembers what is really important. On Monday, Rep. Greg Lewis of St. John (House District 113) provided an emotional reminder to the House of Representatives. He shared that he experienced a medical problem on Christmas Eve and was subsequently diagnosed with a life-threatening illness. Because of his illness, Rep. Lewis must resign his seat. His parting advice to the House is to “enjoy each day, enjoy your family, your friends, your fellow legislators. . . but do not take yourself too seriously. Serve your District with a servant’s heart. This is the House of Representatives. This is not...this is not the house of self-interest. This is not the house of special interest. This is the People’s House; long may it serve the People and this Great State of Kansas.”

BILL INTRODUCTIONS

INSURANCE

SB 66 – Amends registration requirements in the Insurance Holding Company Act related to a filing exemption for enterprise risk reports. The bill would require an enterprise risk report filed by the ultimate controlling person of every insurer (usually meaning the parent company in a family of companies) to be appropriate to the nature, scale, and complexity of the insurer. Referred to the Senate Committee on Financial Institutions and Insurance, Sen. Robert Olsen, Chair.

SB 67 – Establishes the Unclaimed Life Insurance Benefits Act. The bill would, among other things, establish specific definitions for terms used in the Act. The bill has been recommended for passage by the Senate Committee on Financial Institutions and Insurance, Sen. Robert Olsen, Chair.

TAXATION

HB 2212 – As amended, clarifies the Multistate Tax Compact under Kansas statutory provisions relative to the definition of business income for corporation income tax purposes. The bill would clarify, for tax year 2019 and thereafter, that the Compact’s provisions are supplemental to the Kansas Income Tax Act (KITA) and are not available as an alternative method to allocating and apportioning business income. The bill states that in the event of a conflict between the Compact and the KITA, KITA would apply. The bill has been recommended for passage by the House Committee on Taxation, Rep. Steven Johnson, Chair.

SB 196 – Expands the Internal Revenue Code § 179 expense deduction (for certain capital expenditures) to all taxpayers, not just corporate taxpayers. Referred to the Senate Committee on Assessment and Taxation, Sen. Caryn Tyson, Chair.

SB 197 – Reduces the sales tax rate on food and food ingredients with amendments applicable to future credits to the State Highway Fund. Referred to the Senate Committee on Assessment and Taxation, Sen. Caryn Tyson, Chair.

SB 194 – If enacted, the food sales tax credit would sunset in 2019 and be replaced by a food sales tax refund available to certain low income or disabled citizens. Referred to the Senate Committee on Assessment and Taxation, Sen. Caryn Tyson, Chair.

HB 2352 – Provides for changes to nexus rules for Kansas sales tax and use tax laws. The bill attempts to take advantage of the “click through” nexus doctrine developed by the United States Supreme Court in the *Wayfair*

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decision. The bill would require tax collection by marketplace facilities and impose sales tax on digital products. Referred to the House Committee on Taxation, Rep. Steven Johnson, Chair.

HB 2349 – Consistent with the purposes of HB 2352, the bill amends the sales tax law to impose sales tax collections on remote sellers. Referred to the House Committee on Taxation, Rep. Steven Johnson, Chair.

LAWS, COURTS, AND REGULATIONS

HB 2125 – Requires the holder of a driver's license who is operating a motor vehicle to promptly deliver and allow a law enforcement officer to handle the driver's license. The House Committee on Transportation reported the bill favorably to the House, and the bill passed on February 21, 2019, Yea: 115 Nay: 2.

SB 204 – Creates a review committee as part of legislative post audit to evaluate the importance of economic incentive programs. Referred to the Senate Committee on Commerce, Sen. Julia Lynn, Chair.

SB 206 – Permits the State Fire Marshal Authority to make arrests, conduct searches and seizures, and carry firearms while investigating violations of law and to generally enforce all the criminal laws of the state encountered by his agents during the routine performance of fireman duties. Referred to the Senate Committee on Federal and State Affairs, Sen. Bud Estes, Chair.

HB 2376 – Permits amendments to birth certificates if the sex of the individual was incorrectly recorded. Referred to the House Committee on Federal and State Affairs, Rep. John Barker, Chair.

HB 2374 – Provides that any person who is the original source of the information used by the Attorney General to bring an action under the Medicaid Fraud Control Act, The False Claims Act, or any other provision of law that protects the integrity of the public treasury may receive 10% of any recovery subject to certain conditions. Referred to the House Committee on Appropriations, Rep. Troy Waymaster, Chair.

HB 2375 – Makes substantial amendments to the Kansas False Claims Act (KSA). KSA 2018 Supp 75-7502 *et seq.* The bill expands penalties and adjusts procedures where private plaintiffs commence actions. Referred to the House Committee on Appropriations, Rep. Troy Waymaster, Chair.

HB 2154 – Amends employment security law to allow furloughed government employees who are deemed essential but are not being paid during the furlough to be eligible for unemployment insurance benefits. The bill would also waive the work search requirements for employees in these situations. Referred to the House Committee on Rural Revitalization, Rep. Don Hineman, Chair.

BANKING AND FINANCIAL INSTITUTIONS

SB 82 – Amends the State Banking Code to prohibit any party from inferring that a financial institution has *knowledge* of an entity's documentation only because the financial institution has a copy of the entity's documentation on file. The bill would also add certified mail and electronic mail as methods that banks may use to send notices to customers and stockholders. In addition, the bill would clarify the statutory language regarding voting rights to recognize that certain financial institutions have members and not stockholders. The Senate Committee on Financial Institutions and Insurance has favorably recommended passage of the bill, Sen. Robert Olson, Chair.

HB 2101 – As amended, changes multiple procedures and requirements regarding credit union governance. Referred to the House Committee on Financial Institutions and Pensions, Rep. Jim Kelly, Chair.

UTILITIES AND TRANSPORTATION

HB 2127 – Removes the requirement that any truck or tractor with a declared gross weight of more than 12,000 pounds must have durably marked on both sides of the vehicle the gross weight and the name and address of the owner or lessee. Referred to the House Committee of Transportation, Rep. Richard Proehl, Chair.

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SB 182 – Would provide for water-measuring devices and inspections thereof. The bill limits the liability of water-rights owners regarding the devices and use of technicians. A hearing was held on the matter on Feb. 21, 2019, in the Senate Committee on Agriculture and Natural Resources, Sen. Dan Kerschen, Chair.

SB 181 – Creates the Kansas Energy Policy Task Force to study the Kansas electric utility services and energy policy issues. A hearing was held on the matter on Feb. 21, 2019, in the Senate Committee on Utilities, Sen. Ty Masterson, Chair.

SB 198 – Authorizes the KCC to issue securitized ratepayer-backed bonds for electric-generating facilities. Interesting; what could go wrong? Referred to the Senate Committee on Utilities, Sen. Ty Masterson, Chair.

HB 2085 – As amended, clarifies if a rural water district (RWD) has available capacity relative to property owner reinstatement. The amended bill was passed by the House on Feb. 22, 2019; Yea: 117 Nay: 0.

SB 186 – Creates a transportation-planning program within KDOT to provide for the selection of projects that will allow for the flexibility to meet emerging and economic needs, including expansion, economic opportunity projects, and modernization projects. Referred to the Senate Committee on Ways and Means, Sen. Carolyn McGinn, Chair.

HB 2364 – Creates a Kansas Aerospace Commission basically to raise money from the public to improve airports and other assets in aviation. Referred to the House Committee on Transportation, Rep. Richard Proehl, Chair.

HEALTHCARE

HB 2339 – Proposes substantial amendments to Chapter 65 of the Kansas Statutes. Annotated relative to the practice of naturopathy. Referred to the House Committee on Health and Human Services, Rep. Brenda Landwehr, Chair.

HB 2377 – Limits the circumstances under which an optometrist, ophthalmologist, or a trained volunteer might be liable for injuries allegedly related to a charity eye exam. Referred to the House Committee on Appropriations, Rep. Troy Waymaster, Chair.

HB 2348 – Effective on or after July 1, 2019, increases the liability limits for the Kansas Health Care Stabilization Fund. Referred to the House Committee on Judiciary, Rep. Fred Patton, Chair.

HB 2358 – Imposes requirements to prescribe opioids. Referred to the House Committee on Health and Human Services, Rep. Brenda Landwehr, Chair.

HB 2357 – Exempts medical professionals licensed in another state from Kansas licensure requirements when they are traveling with a sports team. Referred to the House Committee on Health and Human Services, Rep. Brenda Landwehr, Chair.

SB 194 – Amends certain provisions of the Kansas Revised Uniform Anatomical Gift Act recognizing the inherent right of Kansas citizens and residents to make anatomical gifts. Referred to the Senate Committee on Public Health and Welfare, Sen. Gene Suellentrop, Chair.

SB 193 – Amends the rules regarding licensing for certain professionals relative to the Behavioral Sciences Regulatory Board. Referred to the Senate Committee on Public Health and Welfare, Sen. Gene Suellentrop, Chair.

SB 195 – Proposes a new “Kansas Safe Access Act” providing for the safe, legal, and therapeutic use of cannabis for medical conditions and creating compassion centers. Administration of the Act would be through the Kansas Department of Health and Environment. Referred to the Senate Committee on Public Health and Welfare, Sen. Gene Suellentrop, Chair.

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Kansas Legislative Insights is a publication developed by the Governmental Relations & Public Policy Law practice group of Foulston Siefkin LLP. It is designed to inform business executives, human resources and governmental relations professionals, and general counsel about current developments occurring in current Kansas legislation. Published regularly during the Kansas legislative session, it focuses on issues involving health care, insurance, public finance, taxation, financial institutions, business & economic development, energy, real estate & construction, environmental, agribusiness, employment, and workers compensation. Bill summaries are by necessity brief, however, for additional information on any issue before the Kansas Legislature, contact Foulston Siefkin's Governmental Relations & Public Policy Law practice group leader, James P. Rankin at 785.233.3600 or jrankin@foulston.com.

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PRACTICE AREAS

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